
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Nickie Kane

Write the full name of each plaintiff.

_____CV_____
(Include case number if one has been
assigned)

-against-

City of New York, New York Police Department, Sargent
Pumella, Officer John Doe, Officer Jane Doe

COMPLAINT

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you need more
space, please write "see attached" in the space
above and attach an additional sheet of paper with the full
list of names. The names listed above must be identical to
those contained in Section II.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

Rev. 1/9/17

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ **Federal Question**

☐ **Diversity of Citizenship**

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

Americans with Disabilities Act of 1990, § 101 et seq., 42 U.S.C.A. § 12111 et seq and a violation of the equal protection clause of the United States Constitution, 14th Amendment, Section 2. U.S. Const. amend. XIV, § 2.

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff , _____ , is a citizen of the State of

(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of _____

(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of _____

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of the _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____.
State of _____

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Nickie Kane

First Name

Middle Initial

Last Name

95-73 114th Street

Street Address

South Richmond Hill, NY 11419

County, City State Zip Code

786 440-8209

kameo712@gmail.com

Telephone Number

Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name

Last Name

City of

New York

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City

State

Zip Code

Defendant 2:

New York Police
DepartmentCurrent Job Title
(or other
identifying
information)

First Name

Last Name

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City

State

Zip Code

Defendant 3:

Sargent Pumella

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City State Zip Code Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City

State

Zip Code

Defendant 4: Officer John Doe

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City State Zip Code Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City

State

Zip Code

Defendant 5: Officer Jane Doe

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

1 Police Plaza Path, New York, NY 10038

County, City State Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: Intersection of Atlantic Ave. and 111th Street Queens, NY

Date(s) of occurrence: 7/17/2020

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

Nickie Kane hereinafter the “plaintiff” is a resident of the state of New York in the city of New York with an address of 95-73 114th Street, South Richmond Hill, NY 11419. The defendants The City of New York, The New York Police Department, Officer John Doe, Officer Jane Doe, and Sargent Pumella with a primary place of business in the state of New York with an address of 1 Police Plaza Path, New York, NY 10038 hereinafter the “defendant” or “defendants.”

1. The plaintiff brings this action against the defendants for a violation of the Americans with Disabilities Act of 1990, § 101 et seq., 42 U.S.C.A. § 12111 et seq and a violation of the equal protection clause of the United States Constitution, 14th Amendment, Section 2. U.S. Const. amend. XIV, § 2.
2. The plaintiff uses a service dog to aid her as defined by the American with Disabilities Act *Rose v. Springfield-Greene County Health Dept.*, 668 F.Supp.2d 1206 (2009).
3. The plaintiff suffers from PTSD with depression and anxiety.
4. The plaintiff’s dog wakes her up in the morning, reminds her to take her medication, diverts her attention when she is experiencing a panic attack, and barks at individuals who trigger the plaintiff.
5. On or about July 17, 2020, around 4pm, the plaintiff boarded a bus with her dog in Queens at 114th street and Atlantic Avenue.
6. The plaintiff was repeatedly told to leave the bus due to having a dog.
7. The plaintiff explained to the bus driver that her animal was allowed to be with her by law multiple times.
8. The bus driver refused to contact her supervisor.
9. The bus driver then became belligerent, and after driving a few blocks parked the bus, and refused to continue driving.
10. The plaintiff called the New York Police Department and Officer John Doe and Officer Jane Doe responded.
11. When the Officer’s arrived, all the other passengers had boarded another bus.
12. The plaintiff explained that her animal was a service animal.
13. Officer John Doe instructed the plaintiff that she was not allowed to board the bus with her dog.
14. Officer Doe violated the plaintiff’s rights to have the service animal *Rose v. Springfield-Greene County Health Dept.*, 668 F.Supp.2d 1206 (2009).
15. The plaintiff then filed a claim with the New York City Comptroller.
16. A 50-h hearing was scheduled and conducted on August 26th 2021.

17. The New York City Police Department failed to adequately train officer John Doe and Jane Doe on the Americans with Disabilities Act of 1990, *Felix v. City of New York*, 344 F.Supp.3d 644 (2018).
18. The plaintiff requests that the defendants pay damages for violation of the Americans with Disabilities Act of 1990, § 101 et seq., 42 U.S.C.A. § 12111 et seq., emotional distress, and intentional infliction of emotional distress.

Disparate Treatment of Kane: Violation of Equal Protection

19. The plaintiff is female and presents in a feminine/female attire.
20. A passenger on the bus began complaining that the bus was stopped due to the plaintiff.
21. The passenger then asked the plaintiff, “do you have a dick?”
22. The plaintiff immediately called 911 and reported the crime.
23. As she was disembarking the bus, the other passenger slammed into the plaintiff and her dog with a shopping cart.
24. Officers John and Jane Doe recorded plaintiff’s statements regarding the passenger’s harassment.
25. After some time, the plaintiff called the New York Police Department to inquire about the status of the complaint.
26. The plaintiff was read the report filed by the two responding officers.
27. The complaint did not state an assault had occurred.
28. The plaintiff contacted the New York Police Department’s hate crimes unit.
29. The plaintiff was instructed to go to a police station and ask for the complaint to be amended.
30. Sargent Pumella took the statements for the amended complaint.
31. More time passed and the plaintiff still did not receive any contact from the New York Police Department for a follow up to the complaint.
32. The plaintiff then filed a claim with the New York City Comptroller.
33. A 50-h hearing was scheduled and conducted.
34. The defendants did not make any attempt to settle the claim.
35. A copy of the police report taken was sent to the plaintiff.
36. The report still did not accurately reflect that an assault had occurred.
37. Throughout the pandemic of 2020 many attacks on the Asian community were reported.

38. Assailants often made comments as to the race/ethnicity of the victim prior to the assault.
39. These assaults were classified as hate crimes and referred to the district attorney's office for prosecution as hate crimes.
40. The New York Police Department failed to accurately record the crime against the plaintiff.
41. The New York Police Department failed to investigate and refer the crime for prosecution as a hate crime.
42. The plaintiff was not granted equal protection as similarly situated individuals due to her sex. *Davis v. Coakley*, 802 F.3d 128 (First Circuit 2015).
43. **The defendants' actions fall outside the scope of qualified immunity as they failed to follow established standards for reporting, investigating, and referring a crime for prosecution. "Qualified immunity shields officials from the distractions of frivolous litigation, allowing them to effectively discharge their duties for the public good. But why worry about causing the employee to flinch when the employee's actions do not come within the job description? One could conclude that when officials are no longer acting with official authority, they are just like private citizens, so the doctrine of qualified immunity should not apply." *Stanley v. Gallegos*. 852 F.3d 1210 (2017). To state otherwise one would have to agree that repeatedly inaccurately documenting the incidents/crimes is an established and acceptable police practice.**
44. The plaintiff requests the court to order the New York Police Department to amend the police report to accurately reflect what occurred, an investigation be undertaken, and the complaint be referred for prosecution.
45. The plaintiff requests the defendants pay damages for violation of the right to equal protection under the law, emotional distress, and intentional infliction of emotional distress.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

None

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

The plaintiff requests the defendants pay damages for violation of the right to equal protection under the law, emotional distress, and intentional infliction of emotional distress.

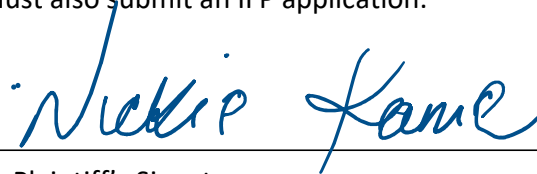
V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

3/1/2022



Dated

Plaintiff's Signature

Nickie

Kane

First Name

Middle Initial

Last Name

95-73 114th Street,

Street Address

South Richmond Hill, NY 11419

County, City

State

Zip Code

786-440-8209

kameo712@gmail.com

Telephone Number

Email Address (if available)

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.



**United States District Court
Southern District of New York**

Pro Se (Nonprisoner) Consent to Receive Documents Electronically

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER¹ at www.pacer.uscourts.gov or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail.² Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

IMPORTANT NOTICE

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;

¹ Public Access to Court Electronic Records (PACER) (www.pacer.uscourts.gov) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

² You must review the Court’s actual order, decree, or judgment and not rely on the description in the email notice alone. See ECF Rule 4.3

4. It will be your duty to regularly review the docket sheet of the case.¹²³

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Note: This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

¹ The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk's Office at the Court.

² PEARL STREET | NEW YORK, NY 10007

³ QUARROPAS STREET | WHITE PLAINS, NY 10601

Kane, Nickie

Name (Last, First, MI)

95-73 114th Street, South
Richmond Hill, NY 11419

Address

City

State

Zip Code

786-440-8209

Kameo712@gmail.com

Telephone Number

3/1/2022

E-mail Address



Date

Signature

Return completed form to:

Pro Se Intake Unit (Room 200)
500 Pearl Street
New York, NY 10007